

**DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

<b>LARRY L. HATTER,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 2018-0041</b>
	)	
<b>GUARDIAN INSURANCE COMPANY,</b>	)	
	)	
<b>Defendant.</b>	)	
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**Attorneys:**

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*For Plaintiff*

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*For Defendant*

**MEMORANDUM OPINION AND ORDER**

THIS MATTER comes before the Court on Defendant Guardian Insurance Company's ("Defendant") "Motion for Summary Judgment" (Dkt. No. 85) and Plaintiff Larry L. Hatter's ("Plaintiff") "Motion to Stay Summary Judgment" (Dkt. No. 91). Also before the Court is Defendant's Motion to Affirm Appraisal Award (Dkt. No. 74), wherein Defendant requests that the Court (1) enter an order "that the appraisal award in this matter . . . sets the amount of the loss payable under the policy" and (2) confirm that "receipt for payment [therefrom] . . . should govern the payment of the award." *Id.* at 1.

After the filing of these Motions, Plaintiff moved to amend his Complaint. (Dkt. No. 107). The Court denied Plaintiff's Motion, dismissing some claims with prejudice and dismissing others

without prejudice. (Dkt. No. 115 at 1-2). The Court granted Plaintiff leave to file an amended complaint addressing the deficiencies that the Court had identified with the proposed amended complaint. *Id.* at 2. Plaintiff subsequently filed his First Amended Complaint. (Dkt. No. 119). Defendant has moved to dismiss the First Amended Complaint for failure to state a claim upon which relief can be granted (Dkt. No. 124), which Plaintiff opposes (Dkt. No. 125).

Because the First Amended Complaint, by operation of law, has become the operative pleading in this case, the Court will deny as moot Defendant's Motion for Summary Judgment. *See Cottonwood Acres, Ltd. Liab. Co. v. First Am. Title Ins. Co.*, No. 2:22-cv-00680, 2023 U.S. Dist. LEXIS 157978, at \*2 (D. Utah July 21, 2023) (“[D]istrict courts . . . have denied as moot motions for summary judgment where, as here, a summary judgment motion was directed at a complaint that had been superseded by an amended complaint.”); *I, Man v. FirstBank P.R.*, Civil Action No. 2016-0057, 2018 U.S. Dist. LEXIS 250164, at \*2 (D.V.I. Mar. 8, 2018) (denying as moot various motions, including a motion for summary judgment, because an amended complaint was filed and all of the pending motions “pertain[ed] to the initial Complaint”); *Reid v. Inch*, No. 3:18-2101, 2020 U.S. Dist. LEXIS 200520, at \*6 (M.D. Pa. Oct. 28, 2020) (denying as moot a pending motion for summary judgment because the plaintiff had been granted leave to amend his complaint after the motion for summary judgment was filed); *White v. City of Topeka*, No. 18-4050, 2019 U.S. Dist. LEXIS 130053, at \*2 (D. Kan. Aug. 5, 2019) (“[A]ny motion directed at the original complaint is rendered moot by the filing of an amended complaint.”); *see also Garrett v. Wexford Health*, 938 F.3d 69, 82 (3d Cir. 2019) (“In general, an amended pleading supersedes the original pleading and renders the original pleading a nullity. Thus, the most recently filed amended complaint becomes the operative pleading.”) (internal citations omitted). Moreover, in light of the

denial as moot of Defendant's Motion for Summary Judgment, Plaintiffs' Motion to Stay Summary Judgment is also moot.

While Defendant's Motion to Affirm Appraisal Award is not directed at Plaintiff's initial complaint and is thus not rendered moot by the filing of the First Amended Complaint, the Court nonetheless deems it premature at this stage in the proceedings. Defendant has filed a motion to dismiss the First Amended Complaint for failure to state a claim. The Motion to Dismiss must be adjudicated and any resulting proceedings must be conducted before a determination is made regarding the ultimate judgment in this matter. Accordingly, the Court will deny the Motion to Affirm Appraisal Award without prejudice.

In view of the foregoing, it is hereby

**ORDERED** that Defendant's "Motion for Summary Judgment" (Dkt. No. 85) is **DENIED AS MOOT**; and it is further

**ORDERED** that Plaintiff's "Motion to Stay Summary Judgment" (Dkt. No. 91) is **DENIED AS MOOT**; and it is further

**ORDERED** that Defendant's Motion to Affirm Appraisal Award (Dkt. No. 74) is **DENIED WITHOUT PREJUDICE**.

**SO ORDERED.**

Date: September 23, 2024

\_\_\_\_\_/s/\_\_\_\_\_  
WILMA A. LEWIS  
District Judge